

AMENDED IN ASSEMBLY MAY 25, 2012

AMENDED IN ASSEMBLY MAY 10, 2012

AMENDED IN ASSEMBLY MAY 1, 2012

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1990

Introduced by Assembly Member Fong

February 23, 2012

An act to add Section 399.23 to the Public Utilities Code, relating to electricity.

LEGISLATIVE COUNSEL'S DIGEST

AB 1990, as amended, Fong. Renewable energy resources: small-scale renewable generation program.

Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations, as defined, while local publicly owned electric utilities, as defined, are under the direction of their governing board. Existing law requires every electrical corporation to file with the commission a standard tariff for electricity generated by an electric generation facility, as defined, that qualifies for the tariff, is owned and operated by a retail customer of the electrical corporation, and is located within the service territory of, and developed to sell electricity to, the electrical corporation. Existing law requires that, in order to qualify for the tariff, the electric generation facility: (1) have an effective capacity of not more than 3 megawatts, subject to the authority of the PUC to reduce this megawatt limitation, (2) be interconnected and operate in parallel with the electric

transmission and distribution grid, (3) be strategically located and interconnected to the electric transmission system in a manner that optimizes the deliverability of electricity generated at the facility to load centers, and (4) meet the definition of an eligible renewable energy resource under the California Renewables Portfolio Standard Program. Existing decisions of the PUC implementing these requirements refer to these tariff requirements as a renewable feed-in tariff. Existing law requires a local publicly owned electric utility that sells electricity at retail to 75,000 or more customers to adopt and implement a tariff for electricity purchased from an electric generation facility meeting certain size, deliverability, and interconnection requirements and to consider certain factors.

This bill would establish the small-scale renewable generation program with the goal of installing 375 megawatts of electrical generating capacity from small-scale renewable generation facilities, as defined, in the state's most impacted and disadvantaged communities, as defined. The bill would require the PUC, in consultation with electrical corporations and interested stakeholders, to develop program elements, ~~as specified, for the program that are applicable to electrical corporations and that achieve certain environmental justice objectives~~ *encourage the hiring of employees from the state's most impacted and disadvantaged communities*. The bill would require each electrical corporation to file with the PUC a standard tariff for electricity purchased pursuant to a clean energy contract, as defined, with a small-scale renewable generation facility owner or operator. The bill would require the PUC to establish a schedule of standard tariff rates for electricity that electrical corporations are required to purchase through clean energy contracts with a small-scale renewable generation facility owner or operator. The bill requires each local publicly owned electric utility that sells electricity at retail to establish a schedule of standard tariff rates for electricity purchased through clean energy contracts from small-scale renewable generation facilities pursuant to a small-scale generation program for the utility. The bill would require the PUC to allocate procurement targets for each electrical corporation, and require the governing board of a local publicly owned electric utility to allocate procurement targets for the utility, in proportion to each utility's percentage share of the state's total peak demand measured in megawatts for the calendar year ending December 31, 2012.

Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because the provisions of this bill would be a part of the act and because a violation of an order or decision of the commission implementing its requirements would be a crime, the bill would impose a state-mandated local program by creating a new crime. Because the bill would impose various duties upon local publicly owned electric utilities, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. It is the intent of the Legislature to support
2 small-scale local clean energy in communities throughout the state
3 in order to increase green jobs and businesses that benefit the
4 communities where electrical utility customers live, especially in
5 the most impacted and disadvantaged communities with high
6 unemployment that bear a disproportionate burden from air
7 pollution, disease, and other impacts from the generation of
8 electricity from the burning of fossil fuels.

9 SEC. 2 Section 399.23 is added to the Public Utilities Code,
10 to read:

11 399.23. (a) It is the goal of this state and the intent of the
12 Legislature to install, by December 31, 2020, 375 megawatts of
13 electrical generation capacity from small-scale renewable
14 generation facilities in the state's most impacted and disadvantaged
15 communities with high unemployment, supported by a program
16 that provides carefully calibrated payments for the electricity
17 generated and that are designed to benefit the state's most impacted
18 and disadvantaged communities.

19 (b) For purposes of this section, the following terms have the
20 following meanings:

(1) “Clean energy contract” means a standard offer long-term contract through which an electrical corporation or local publicly owned electric utility is required to purchase electricity generated by a small-scale renewable generation facility according to a preestablished price schedule when the requirements of this section are met.

(2) “Most impacted and disadvantaged communities” means ~~those areas within a region having the highest 10 percent air pollution and socioeconomic vulnerability, or those areas within a region having the highest 10 percent vulnerability to direct health or environmental impacts of climate change. The evaluation criteria for air pollution exposure shall include, at a minimum, criteria and toxic air pollution levels, proximity to sources of air pollution, and the presence of sensitive populations. The evaluation criteria for socioeconomic vulnerability, to the extent feasible, shall include multiple indicators, including poverty level, percent home ownership, unemployment level, and educational attainment within an air basin that does not meet one or more national or state ambient air quality standards, or those areas having the highest 10 percent socioeconomic vulnerability to direct health, or environmental, impacts of climate change~~ *census tracts that are identified using the environmental justice screening method metrics developed by Professors James L. Sadd, Manuel Pastor, Rachel Morello-Frosch, Justin Scoggins, and Bill Jesdale (Vol. 8, International Journal of Environmental Research and Public Health (May 2011), Playing It Safe: Assessing Cumulative Impact and Social Vulnerability through an Environmental Justice Screening Method in the South Coast Air Basin, California, pages 1441 to 1459, inclusive).*

(3) “Small-scale renewable generation facility” means an electrical generation facility, located within the service territory of, and developed to sell electricity to, an electrical corporation or local publicly owned electric utility, that meets all of the following requirements:

(A) Has a rated capacity of not more than 500 kilowatts.

(B) Is interconnected and operates in parallel with the electrical distribution grid.

(C) Is interconnected to the electrical distribution grid in a manner that optimizes the deliverability of electricity generated at the facility to load centers.

1 (D) Is an eligible renewable energy resource.

2 (c) (1) The commission, in consultation with electrical
3 corporations and interested stakeholders shall develop program
4 elements for the small-scale renewable generation program
5 applicable to electrical corporations, including eligibility criteria
6 and payment rates for clean energy contracts with small-scale
7 renewable generation facilities to be located in, and methods to
8 accomplish some or all of the following environmental justice
9 benefits for that encourage the hiring of employees from, the state's
10 most impacted and disadvantaged communities: communities.

11 (A) Create quality local green jobs that provide prevailing
12 wages, opportunity for advancement, and benefits.

13 (B) Promote the hiring of employees from the state's most
14 impacted and disadvantaged communities and from high-quality
15 local green job training programs.

16 (C) Promote the development of local green businesses.

17 (D) Promote local manufacturing in the state's most impacted
18 and disadvantaged communities.

19 (E) Promote environmentally responsible recycling of
20 manufactured renewable energy products.

21 (F) Promote local ownership of green businesses and small-scale
22 renewable generation facilities.

23 (G) Facilitate efforts to target construction job opportunities to
24 disadvantaged residents, generate tax revenue and other income
25 for the state's most impacted and disadvantaged communities, and
26 provide lasting remediation for the conditions of poverty and
27 unemployment by providing careers in the skilled construction
28 trades.

29 (2) The commission shall allocate procurement targets for each
30 electrical corporation with the goal of procuring 375 megawatts
31 of electrical generating capacity from small-scale renewable
32 generation facilities statewide by December 31, 2020. The targets
33 shall be allocated in proportion to each electrical corporation's
34 percentage share of the state's total peak demand, measured in
35 megawatts, for the calendar year ending December 31, 2012.

36 (3) The commission shall determine the capacity of small-scale
37 renewable generation facilities that can be built in the state's most
38 impacted and disadvantaged communities in order to achieve the
39 environmental justice benefits described in paragraph (1).

1 ~~(4) The program shall be designed to support the development~~
2 ~~of a variety of generating technologies and project sizes so as to~~
3 ~~achieve a diverse portfolio of eligible renewable energy resources~~
4 ~~that provides benefits to the distribution grid and achieves the~~
5 ~~environmental justice benefits described in paragraph (1).~~

6 ~~(5)~~

7 (3) The commission shall establish a schedule of standard tariff
8 rates for electricity that electrical corporations are required to
9 purchase through clean energy contracts with a small-scale
10 renewable generation facility owner or operator. The tariff payment
11 rates shall be sufficient to stimulate the market for ~~each type of~~
12 ~~electrical generation sufficiently to meet the program targets.~~
13 ~~Separate tariff payment rates shall be created for each type of~~
14 ~~electrical generation service provided, including peaking, base~~
15 ~~load, and, as available, specific for the size range and the specified~~
16 ~~benefits of projects included in a diverse portfolio of project sizes~~
17 ~~and to achieve the targets and specified benefits of the program,~~
18 while maintaining ratepayer indifference for the program as a
19 whole. Tariff rates may be adjusted to account for the availability
20 of tax credits or other subsidies to owners of small-scale renewable
21 electric generation facilities, to the extent necessary to ensure
22 achievement of the benefits of this program.

23 ~~(6)~~

24 (4) The commission shall establish an annual cost limitation for
25 the small-scale renewable generation program, which shall not
26 exceed 0.375 percent of the total cost of each electrical
27 corporation's forecast retail sales in the calendar year ending
28 December 31, 2020. The commission shall endeavor to design the
29 program so that the program goals can reasonably be expected to
30 be met within the cost containment limitation.

31 ~~(7)~~

32 (5) Clean energy contracts shall be for a period of 20 or more
33 years, as authorized by the commission. It is the intent of the
34 Legislature that long-term contracts be used to lower the average
35 cost per kilowatthour for small-scale renewable electric generation
36 facilities.

37 ~~(8)~~

38 (6) The commission may modify or adjust the requirements of
39 this section for any electrical corporation with less than 100,000
40 service connections, as individual circumstances merit.

~~(9)~~

(7) Every electrical corporation shall file with the commission a standard tariff for electricity purchased pursuant to a clean energy contract with a small-scale renewable generation facility owner or operator. The tariff shall provide for payment for every kilowatthour of electricity purchased from a small-scale renewable generation facility pursuant to the clean energy contract.

~~(10)~~

~~(8) The~~ *Not later than January 31, 2013, the* commission shall open a proceeding or expand the scope of an existing proceeding in order to accomplish the requirements of this subdivision ~~no later than January 31, 2013,~~ and shall ensure that electrical corporations begin offering clean energy contracts pursuant to the program by January 1, 2014.

(d) (1) Each local publicly owned electric utility that sells electricity at retail shall establish a schedule of standard tariff rates for electricity purchased through clean energy contracts from small-scale renewable generation facilities pursuant to a small-scale generation program for the utility. The schedule of tariff rates shall provide for payment for every kilowatthour of electricity purchased from a small-scale renewable generation facility. ~~The program shall be designed to support the development of a variety of generating technologies and project sizes so as to achieve a diverse portfolio of eligible renewable energy resources that provides benefits to the distribution grid and achieves the environmental justice benefits described in paragraph (1) of subdivision (c).~~

(2) Clean energy contracts shall be for a period of 20 or more years, as authorized by the local publicly owned electric utility. It is the intent of the Legislature that long-term contracts be used to lower the average cost per kilowatthour for small-scale renewable electric generation facilities.

(3) The tariff payment rates shall be sufficient to stimulate the market for each type of electrical generation sufficiently to meet the program targets. Separate tariff payment rates shall be created for each type of electrical generation service provided, including peaking, base load, and, as available, specific for the size range and the specified benefits of projects included in a diverse portfolio of project sizes and to achieve the targets and specified benefits of the program, while maintaining ratepayer indifference for the program as a whole. Tariff rates may be adjusted to account for

1 the availability of tax credits or other subsidies to owners of
2 small-scale renewable electric generation facilities, to the extent
3 necessary to ensure achievement of the benefits of this program.

4 (4) Each local publicly owned electric utility shall establish an
5 expedited interconnection procedure for small-scale renewable
6 generation facilities.

7 (5) Each local publicly owned electric utility shall begin to offer
8 clean energy contracts pursuant to its small-scale renewable
9 generation program by January 1, 2014.

10 (6) Each local publicly owned electric utility shall establish a
11 procurement target for the utility with the goal of procuring 375
12 megawatts of electrical generating capacity from small-scale
13 renewable generation facilities statewide by December 31, 2020,
14 to be allocated in proportion to each utility's percentage share of
15 the state's total peak demand measured in megawatts for the
16 calendar year ending December 31, 2012.

17 (7) The governing board of a publicly owned electric utility
18 with fewer than 75,000 service connections may modify or adjust
19 the requirements of this section to account for demographic
20 distribution of population meeting the environmental justice
21 screening method, or as individual circumstances merit. For these
22 purposes, "environmental justice screening methodology" means
23 the environmental justice screening method metrics developed by
24 Professors James L. Sadd, Manuel Pastor, Rachel Morello-Frosch,
25 Justin Scoggins, and Bill Jesdale (Vol. 8, International Journal of
26 Environmental Research and Public Health (May 2011), Playing
27 It Safe: Assessing Cumulative Impact and Social Vulnerability
28 through an Environmental Justice Screening Method in the South
29 Coast Air Basin, California, pages 1441 to 1459).

30 (8) The governing board of a publicly owned electric utility
31 with 75,000 or more service connections shall ensure that the
32 requirements of this section are met.

33 (e) The program shall be implemented at a regular annual pace
34 over a period of six years. Each electrical corporation and local
35 publicly owned electric utility shall make the clean energy contract
36 tariff available to the owner or operator of a small-scale renewable
37 generation facility until the utility reaches that portion of the 375
38 megawatts of electrical generation capacity allocated to it by the
39 commission pursuant to paragraph (2) of subdivision (c).

(f) Within 10 days of receipt of a request for a clean energy contract pursuant to this section from an owner or operator of a small-scale renewable generation facility, the electrical corporation or local publicly owned electric utility receiving the request shall post a copy of the request on its Internet Web site. The information posted on the Internet Web site shall include the name of the city in which the facility is located, but information that is proprietary and confidential, including the address information beyond the name of the city in which the facility is located, shall be redacted.

(g) (1) An electrical corporation or local publicly owned electric utility may deny a request for a clean energy contract pursuant to this section if the utility determines any of the following to be true:

(A) The generation facility does not meet the requirements of this section.

(B) The distribution grid that would serve as the point of interconnection is inadequate.

(C) The small-scale renewable generation facility does not meet all applicable state and local laws and building standards, and utility interconnection requirements.

(D) The aggregate of all small-scale renewable generating facilities on a distribution circuit would adversely impact utility operation and load restoration efforts of the distribution system.

(2) (A) Upon receiving a notice of denial from an electrical corporation, the owner or operator of the electric generation facility denied a clean energy contract shall have the right to appeal that decision to the commission.

(B) Upon receiving a notice of denial from a local publicly owned electric utility, the owner or operator of the small-scale renewable generation facility denied a clean energy contract shall have the right to appeal that decision to the governing board of the local publicly owned electric utility.

(3) In order to ensure the safety and reliability of small-scale renewable generation facilities, the owner of a facility receiving a clean energy contract pursuant to this section shall provide an inspection and maintenance report to the electrical corporation or local publicly owned electric utility at least once every other year. The inspection and maintenance report shall be prepared at the expense of the owner or operator by a California-licensed contractor who is not the owner or operator of the small-scale

1 renewable generation facility. A California-licensed electrician
2 shall perform the inspection of the electrical portion of the facility.

3 (4) The clean energy contract between the owner or operator of
4 a small-scale renewable generation facility and the electrical
5 corporation or local publicly owned electric utility shall contain
6 provisions that ensure that construction of the facility complies
7 with all applicable state and local laws and building standards, and
8 utility interconnection requirements.

9 (h) (1) All construction and installation of facilities of the
10 electrical corporation or local publicly owned electric utility,
11 including at the point of the output meter or at the transmission or
12 distribution grid, shall only be performed by that utility.

13 (2) All interconnection facilities installed on the utility's side
14 of the transfer point for electricity between the electrical
15 corporation or local publicly owned electric utility and the electrical
16 conductors of the small-scale renewable generation facility shall
17 be owned, operated, and maintained only by the utility. The
18 ownership, installation, operation, reading, and testing of revenue
19 metering equipment for electric generating facilities shall only be
20 performed by the utility.

21 (i) The commission shall require electrical corporations to ensure
22 expedited interconnection of small-scale renewable generation
23 facilities.

24 (j) Every kilowatthour of electricity purchased by an electrical
25 corporation or local publicly owned electric utility from a
26 small-scale renewable generation facility through a clean energy
27 contract shall count toward meeting that utility's procurement
28 requirements for electricity products meeting the first priority
29 portfolio content category requirements of paragraph (1) of
30 subdivision (b) of Section 399.16, but shall not count toward the
31 procurement requirements of subdivision (e) of Section 387.6 or
32 subdivision (f) of Section 399.20.

33 ~~(k) The commission—Each electrical corporation and local~~
34 ~~publicly owned electric utility shall post on its Internet Web site~~
35 ~~for electrical corporations, and each local publicly owned electric~~
36 ~~utility shall post on its Internet Web site, updated information on~~
37 ~~the program on its Internet Web site, that includes all of the~~
38 ~~following:~~

39 (1) Maps showing where small-scale renewable electric
40 generation facilities may best be located on the distribution grid.

1 (2) Current tariffs and available capacity in the program.

2 (3) Local employment and economic development opportunities
3 provided by the program.

4 (4) Annual reports on the program that show capacity of and
5 energy generated by each renewable energy technology installed,
6 progress on meeting program targets ~~and environmental justice~~
7 ~~goals, benefits of the program,~~ and any recommendations for
8 modifications to the program that would help to meet the program
9 goals.

10 (l) The commission and local publicly owned electric utilities
11 shall evaluate ways to integrate the small-scale renewable
12 generation program with energy efficiency and other demand-side
13 programs, and shall implement measures that will optimize the
14 benefits and reduce the costs of the programs.

15 (m) The commission and local publicly owned electric utilities
16 shall evaluate contract structures, loan guarantees, arrangements
17 with financial institutions, community bulk purchase agreements,
18 and other potential program elements, and shall implement
19 measures that will reduce the cost and ensure the benefits of the
20 small-scale renewable generation program.

21 SEC. 3. No reimbursement is required by this act pursuant to
22 Section 6 of Article XIII B of the California Constitution because
23 a local agency or school district has the authority to levy service
24 charges, fees, or assessments sufficient to pay for the program or
25 level of service mandated by this act or because costs that may be
26 incurred by a local agency or school district will be incurred
27 because this act creates a new crime or infraction, eliminates a
28 crime or infraction, or changes the penalty for a crime or infraction,
29 within the meaning of Section 17556 of the Government Code, or
30 changes the definition of a crime within the meaning of Section 6
31 of Article XIII B of the California Constitution.